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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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07/714,441 06/13/91 BURTON

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EXAMINER

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ART UNIT

PAPER NUMBER

1202

23

DATE MAILED: 02/23/93

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined

☒ *Further* Response to communication filed on 220492

☒ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I - THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> |

Part II SUMMARY OF ACTION

1. ☒ Claims 1, 5, 7-9, 11-24, 32-40, 43, 44 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.

3. ☐ Claims _____ are allowed.

4. ☒ Claims 1, 5, 7-9, 11-24, 32-40, 43, 44 are rejected.

5. ☐ Claims _____ are objected to.

6. ☐ Claims _____ are subject to restriction or election requirement.

7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed on _____, has been ☐ approved. ☐ disapproved (see explanation).

12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received. ☐ been filed in parent application, serial no. _____; filed on _____.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

Art Unit 1202

In view of a procedural discussion with Mr. Pazuniak on 30 Dec, 1992, his advise the issue fee had been paid, thus bringing into play 37 CFR 1.312(b), it was agreed the instant case would be reopened, rather than correct the problems set out below while in issue.

Prosecution on the merits of this application is reopened on claims all considered unpatentable for the reasons indicated below: the incompleteness of the reissue oaths and the 35 USC 112 par 2 issue set forth below.

Applicant is advised that the Notice of Allowance dated 29 Oct. 1992, is vacated. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a Deposit Account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a Deposit Account.

The reissue oath or declaration filed with this application is defective because it fails to particularly specify the errors relied upon, as required under 37 C.F.R. § 1.175(a)(5).

The supplemental declaration filed 26 Aug 1992 does not identify as "error" each and every amendment to the claim as required by the rule, as well as the terminal disclaimer. What

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"error" is corrected by the addition of claims 43 and 44? Why is "organic" of claim 8 limited, but not 44?

The reissue oath or declaration filed with this application is defective because it fails to particularly specify how the errors relied upon arose or occurred, as required under 37 C.F.R. § 1.175(a)(5).

The supplemental declaration filed 26 August 1992, does not specify the manner and details of how the errors occurred and the manner in which they were discovered by applicant with respect to each and every amendment to the claims MPEP 1444.

In view of the fact that amendments have been made to the claims, a new/supplemental oath or declaration complying with 37 C.F.R. § 1.175(a)(1), (a)(2) and/or (a)(3), (a)(5), (a)(6), and (a)(7) is required.

Claims all are rejected as being based upon a defective reissue declaration under 35 U.S.C. § 251. See 37 C.F.R. § 1.175.

In procedural interviews on 24 and 30 Dec. 1992, counsel advised that a Pippenger declaration of inaccessibility of the patent to be reissued had been submitted on or about 1 Nov. 92. Counsel had been advised that it is not in the record, a photocopy replacement is requested to assure a complete record, MPEP 1416.

Claims all are rejected under 35 U.S.C. § 112, second

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paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

They do not comply with 37 CFR 1.121 (a) and (e), MPEP 1453. Original claims which are replaced by an amended claim of the same number should be stricken and not bracketed, amended claims 43 and 44 must be underlined in their entirety. Amendments made at filing must be carried forward in each successive rewriting of the claim, the draft of applicants claims in paper no 15 does not include changes earlier in the prosecution.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. Daus whose telephone number is (703) 308-4720.

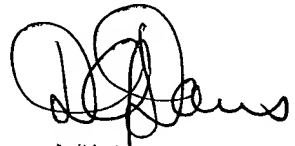
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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1235.

DAUS:chs
December 31, 1992



DONALD A. DAUS
ENGINEER
GROUP ART UNIT 1202